

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

3 RICHI ORLANDO BRIONES,

Case No. 2:23-cv-00417-APG-DJA

4 Plaintiff,

ORDER

5 v.

6 DR. EXUM, et al.,

7 Defendants.

9 This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. §  
10 1983 by a state prisoner. Later, the Court granted Plaintiff's motion for appointment of  
11 counsel. (ECF Nos. 4, 5). Plaintiff submitted an application to proceed *in forma pauperis*.  
12 (ECF No. 1). Based on the financial information provided, the Court finds that Plaintiff is  
13 unable to prepay the full filing fee in this matter.

14 The Court entered a screening order on April 17, 2023. (ECF No. 6). The  
15 screening order imposed a 90-day stay and the Court entered a subsequent order in  
16 which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos.  
17 6, 9). At the mediation, the parties decided that they needed more information and  
18 planned to continue the mediation. (ECF No. 16). Plaintiff now moves to end the stay  
19 and move the case onto the normal litigation track. (ECF No. 21). Defendants do not  
20 oppose moving onto the normal litigation track even though they would prefer to attempt  
21 to resolve the case through the mediation process. (ECF Nos. 22, 23). The Court now  
22 grants Plaintiff's motion to end the stay and move the case onto the normal litigation track.

23 For the foregoing reasons, **IT IS ORDERED** that:

24 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is  
25 **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In  
26 the event that this action is dismissed, the full filing fee must still be paid pursuant to 28  
27 U.S.C. § 1915(b)(2).

1       2. The movant herein is permitted to maintain this action to conclusion without  
2 the necessity of prepayment of any additional fees or costs or the giving of security  
3 therefor.

4       3. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform  
5 Act, the Nevada Department of Corrections will forward payments from the account of  
6 **Richi Orlando Briones, #1221887** to the Clerk of the United States District Court, District  
7 of Nevada, 20% of the preceding month's deposits (in months that the account exceeds  
8 \$10.00) until the full \$350 filing fee has been paid for this action. The Clerk of the Court  
9 will send a copy of this order to the Finance Division of the Clerk's Office. The Clerk will  
10 send a copy of this order to the attention of **Chief of Inmate Services for the Nevada**  
11 **Department of Corrections** at [formapauperis@doc.nv.gov](mailto:formapauperis@doc.nv.gov).

12      4. The Clerk of the Court shall electronically **SERVE** a copy of this order and  
13 a copy of Plaintiff's complaint (ECF No. 7) on the Office of the Attorney General of the  
14 State of Nevada by adding the Attorney General of the State of Nevada to the docket  
15 sheet. This does not indicate acceptance of service.

16      5. Service must be perfected within ninety (90) days from the date of this order  
17 pursuant to Fed. R. Civ. P. 4(m).

18      6. Subject to the findings of the screening order (ECF No. 6), within twenty-  
19 one (21) days of the date of entry of this order, the Attorney General's Office shall file a  
20 notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it  
21 accepts service; (b) the names of the defendants for whom it does not accept service,  
22 and (c) the names of the defendants for whom it is filing the last-known-address  
23 information under seal. As to any of the named defendants for whom the Attorney  
24 General's Office cannot accept service, the Office shall file, under seal, but shall not serve  
25 the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such  
26 information. If the last known address of the defendant(s) is a post office box, the Attorney  
27 General's Office shall attempt to obtain and provide the last known physical address(es).

1       7. If service cannot be accepted for any of the named defendant(s), Plaintiff  
2 shall file a motion identifying the unserved defendant(s), requesting issuance of a  
3 summons, and specifying a full name and address for the defendant(s). For the  
4 defendant(s) as to which the Attorney General has not provided last-known-address  
5 information, Plaintiff shall provide the full name and address for the defendant(s).

6       8. If the Attorney General accepts service of process for any named  
7 defendant(s), such defendant(s) shall file and serve an answer or other response to the  
8 complaint (ECF No. 7) within sixty (60) days from the date of this order.

9. Plaintiff shall serve upon defendant(s) or, if an appearance has been  
10 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other  
11 document submitted for consideration by the Court. If Plaintiff electronically files a  
12 document with the Court's electronic-filing system, no certificate of service is required.  
13 Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff  
14 mails the document to the Court, Plaintiff shall include with the original document  
15 submitted for filing a certificate stating the date that a true and correct copy of the  
16 document was mailed to the defendants or counsel for the defendants. If counsel has  
17 entered a notice of appearance, Plaintiff shall direct service to the individual attorney  
18 named in the notice of appearance, at the physical or electronic address stated therein.  
19 The Court may disregard any document received by a district judge or magistrate judge  
20 which has not been filed with the Clerk, and any document received by a district judge,  
21 magistrate judge, or the Clerk which fails to include a certificate showing proper service  
22 when required.

23 || 10. This case is no longer stayed.

24 11. The motion to end the stay and continue litigation (ECF No. 21) is granted.

DATED this 3<sup>rd</sup> day of November 2023.

**UNITED STATES MAGISTRATE JUDGE**